THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.11601 OF 2007

DATED: 14-08-2007

Between :

K. Vara Prasad … Petitioner

And

1. The Assistant Director of Mines & Geology,
   Ongole, Prakasam District., and another. … Respondents

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.11601 OF 2007

ORDER :

The petitioner herein was granted a lease for sand quarrying in the sand reach of Mallavaram Village, Maddipadu Mandal, Prakasam District for a period of one year from 29-5-2005 to 28-5-2006. It is not in dispute that the said lease was granted following the procedure prescribed under Rule 9-B of the A.P. Minor Mineral Concession Rules, 1966 (for short, 'the Rules') as substituted by G.O.Ms.No.1, Industries & Commerce (M1) Department, dated 1-1-2001. As per Rule 9-P of the Rules the petitioner is entitled for renewal of the lease for the second year on payment of the knocked down amount along with 10% enhancement towards second year lease amount on or before 45 days of the expiry of the 1st year lease period. In terms of Rule-9P the petitioner has deposited the required amount by way of demand draft dated 13-4-2006 towards second year lease amount. However, the necessary order granting renewal of lease for the 2nd year could be passed by the 2nd respondent on 6-9-2006 renewing the lease upto 28-5-2007. On account of the delay in granting the renewal, the petitioner could not carry on mining operations for about 100 days. In the circumstances, the petitioner made a representation dated 16-5-2007 requesting the respondents to grant extension of lease for a period of 100 days. The said request of the petitioner was rejected by the 1st respondent - Assistant Director of Mines & Geology by order dated 23-5-2007 on the ground that as per Rule 9-L of the Rules as amended by G.O.Ms.No.84, Ind. & Comm.

Department, dated 10-4-2007 no extension is permissible. Aggrieved by the same, the present writ petition is filed.

I have heard the learned Counsel for both the parties and perused the counter-affidavit filed by the 1st respondent.

Admittedly the petitioner was granted lease in terms of Rule 9-B as substituted by G.O.Ms.No.1, dated 1-1-2001. However, during the subsistence of the said lease, Rule 9 of the Rules was again amended by G.O.Ms.No.84, dated 10.4.2007 consequent to the change of policy vide G.O.Ms.No.24, dated 12.2.2007 under which the subject-matter of disposal of sand bearing areas were withdrawn from the Panchayat Raj Department and transferred to the Department of Mines & Geology. As per Rule 9-K of the Rules that were in force at the time of grant of lease the successful bidder may claim for extension of lease period provided the delay was not caused by himself in paying the required amounts and executing the agreements. In terms of the said Rule the petitioner sought for extension of lease for a period of 100 days. By the date of the said application dated 16-5-2007 Rule 9 has been amended by G.O.Ms.No.84, dated 10.4.2007 w.e.f. 10.4.2007. As per Rule 9-L of the new Rules no extension of lease can be granted under any circumstances. The said Rule 9-L runs as under :

> *"**9-L Penal Cause***
>
> *The successful tenderer or bidder shall have no claims for any compensation due to floods or heavy rains or any other situation and extension of the lease period shall not be granted under any circumstances."*

As could be seen from the impugned order, dated 23-5-2007, the petitioner's request for extension of lease was negatived only on the ground that the same is impermissible under Rule 9-L of the new Rules.

It is true that an application for lease is required to be

considered according to the Rules in force on the date of disposal of the application. However, since the petitioner was granted the lease under G.O.Ms.No.1, dated 1-1-2001, he acquired a vested right to seek extension of lease under certain circumstances in terms of Rule 9-K of the said Rules. It is relevant to note that his claim for extension of lease is actually based on the ground that there was delay on the part of the officials in granting the renewal for the second year under G.O.Ms.No.1, dated 1.1.2001. Hence, I am of the opinion that the 1st respondent ought to have considered his request for extension of lease only on the basis of Rule 9-K of the Rules which was in force at the relevant point of time. The impugned order under which the petitioner's request was rejected on the basis of new Rules made under G.O.Ms.No.84, dated 10.4.2007 is erroneous and unsustainable.

For the aforesaid reasons, the impugned order dated 23-5-2007 is hereby set aside and the Writ Petition is disposed of with a direction to the respondent No.1 to reconsider the petitioner's representation dated 16-5-2007 in terms of the Rules made under G.O.Ms.No.1, dated 1-1-2001 and pass appropriate

orders afresh in accordance with law as expeditiously as possible preferably within a period of two weeks from the date of receipt of this order. No costs.

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G. ROHINI, J.

Dt. 14-8-2007

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